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DIVORCE—DEFENSE—CONNIVANCE.—Complainant, who sought a ground for divorce against his wife, employed persons to procure evidence of his wife's infidelity, and such persons set about to procure the defilement of the wife, and by the intervention of such persons the wife was purposely induced to commit adultery. *Held*, the husband has no remedy, though it is proved that he had not given any distinct orders to such persons to so act. *Rademacher v. Rademacher* (1908), — N. J. Eq. —, 70 Atl. 687.

The decision in the principal case is based on the ground that the petitioner cannot obtain redress for an act brought about by his own agent; the court observing that the outrageous performance, though not authorized by the complainant, was conducted in his interest. The trend of the decisions is in accord with the principal case, although few in number can be found upon the precise point. *Dennis v. Dennis*, 68 Conn. 186, 36 Atl. 34; *Cane v. Cane*, 39 N. J. Eq. 148; *Gower v. Gower et al.*, L. R. 2 P. & D. 428; *Bell v. Bell*, 58 L. J. P. D. & A. 54; *Picken v. Picken*, 34 L. J. P. M. & A. 22. The English doctrine as laid down in *Gower v. Gower* (*supra*) appears to be that the effect will not be different, though the agent proceeded self moved without authority in fact from the principal, in analogy to the rule in contracts that one who takes an advantage from an agent's unauthorized fraud is answerable for the fraud. The case of *Gower v. Gower*, *supra*, has been criticised in BISHOP ON MARRIAGE, DIVORCE, and SEPARATION, Vol. 2, § 116. The author takes the view that the petitioner should not be denied the privilege of availing himself of the respondent's adulterous act where the agent, without the knowledge and without the authority in fact from the principal, lays temptations for her. A somewhat recent case holds that the petitioner should not be denied a divorce on clear proof of adultery by defendant, because defendant went with the petitioner's detective to a house of prostitution; defendant testifying that he deliberately committed the adultery and there being nothing to justify the finding that plaintiff employed the detective to aid or connive at the commission thereof, or that she had any knowledge that he did so, or that she or her attorney was in any way responsible for his acts. *Tuck v. Tuck*, 117 App. Div. 421, 102 N. Y. Supp. 688. A husband was denied redress in an action for divorce where the court found that he had employed several persons to work up a case against his wife, where no restrictions were put upon the agents as to the means they should employ for this purpose. *Yocum v. Yocum*, 3 Pa. Dist. 615.

ELECTIONS—PRIMARY ELECTIONS—CANVASSING OF VOTES.—A law of Michigan (Laws Ex. Sess. 1907, p. 10) provides: "Any candidate voted for at any primary election * * * who conceives himself aggrieved on account of fraud or error by the board of primary election inspectors in the count of the votes cast or the returns made by said board may" * * * ask for a recount of the votes, and the board of canvassers "shall * * * open the ballot boxes * * * and make a recount thereof * * * and make a correct and complete return in writing showing the full number of votes cast and the names of the candidates and the number of votes given

to each." Where two candidates for nomination to the office of governor on the republican ticket had challenged the correctness of the primary returns in certain precincts and the board of canvassers, in proceeding to a recount of the votes there cast, had rejected fourteen ballots, eleven of which the board had ascertained from an inspection of the enrollment list had been cast by voters improperly enrolled, and the remaining three by democrats, it was *held*: The board of canvassers may lawfully do no more than recount the votes cast and declare the result in accordance with such count. *Bradley v. Board of State Canvassers; Warner v. Board of State Canvassers* (1908), — Mich. —, 117 N. W. 649.

The court, speaking through OSTRANDER, J., said in effect: The language of the statute is clear. It provides that in a certain contingency the canvassers shall make a recount of the votes cast and declare the result. That much only they can lawfully do and no more. Consequently 'when by the plain terms of the statute the canvassers have certain ministerial duties imposed upon them it is imperative that they be confined to these. The case raises a new and interesting question. No previous decisions of Michigan directly in point are to be found. And owing to the comparative recency of primary election legislation the precise question here involved seems not to have been up before the courts of other states. It has been held, it is true, that the inspectors at the general election may not look beyond the poll lists and the ballots in the proceeding to count the votes. *May v. Board of Canvassers of Wayne Co.* (1892), 94 Mich. 505. But whether that case would warrant the extension of a similar rule to canvassers of primaries can well be doubted. The dissenting opinion in fact is a strong argument in the negative. But a fair construction of the act would lead to the conclusion of the majority of the court. And in the absence of any ambiguity in the terms of the statute, the court would not be justified in widening its scope so as to embrace other things that the legislators might possibly have had in mind. Moreover, the interpretation made of this statute is the only one consonant with its effective operation, a consideration which must have had great weight with the court in view of its reluctance to nullify a statute by construction.

EMINENT DOMAIN—INTEREST ON AWARD AGAINST THE GOVERNMENT.—The United States had condemned land in the city of Duluth for a post office site. After the commissioners had made their award, the landowner claimed interest from the date of the filing of the commissioners' report. *Held*, to make "just compensation" it was proper to allow interest (PHILIPS, J., dissenting). *United States v. Sargent* (1908), — C. C. A. 8th Cir. —, 162 Fed. 81.

The decision is based on three conclusions: (1) That this is not a suit against the government, but an adversary proceeding by the government. (2) That it was palpably fair and reasonable in order to make just compensation, since the acts under which the proceedings were instituted by the government provided that the forms and modes of proceedings con-